IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 5 of 1999
with
Civil Application No. 34 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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AMRUT PROTEINS
Versus
GIRIRAJ TRADE LINK PVT.LTD.

Appearance:
1. Appeal from Order No. 5 of 1999
MR YATIN SONI for appellants
MR HS TOLIA FOR M/S THAKKAR ASSOC. for Respondent

CORAM : MR.JUSTICE A.M.KAPADIA

Date of decision: 26/04/2002

ORAL JUDGEMENT

1. In this Appeal from Order which is filed under Order 43 Rule 1 (r) of the Code of Civil Procedure ('the Code' for short), appellants/ defendants seek to challenge the order date December 11, 1998 recorded below application Ex.5 in Regular Civil Suit No.1 of 1998 by the learned 2nd Extra Assistant Judge, Gondal of Rajkot District by which application Ex.5 filed under Order 39 Rule 1 and 2 of the Code by the respondent/plaintiff against the appellants/defendants seeking temporary injunction as prayed for in para 19-A of the application

came to be allowed and temporary injunction is granted upto final disposal of the suit. By the said relief appellants/defendants have been restrained by interim injunction order during the pendency of the suit from manufacturing, selling or otherwise dealing in the goods edible oils, cotton seeds oil and Rapeseed Oil under the Branch name AMRUT and any other identical and/or deceptively similar brand name as that of the registered Trade Mark of the respondent/plaintiff so as to restrain them from infringing the Trade Mark rights of the respondent/plaintiff and from passing off their such goods as and for the true goods of the respondent/plaintiff.

2. When the matter is called out, Mr. Yatin Soni, learned advocate for the appellants and Mr. H.S. Tolia, learned advocate for the respondent jointly submitted that while admitting this AO, this Court has granted ad-interim relief in Civil Application No.34 of 1999 whereby the order which is impugned in this AO granting relief in favour of the respondent/plaintiff has been stayed by this Court and resultantly at present there is no interim injunction against the appellants/defendants as prayed for in the application Ex.5 by the respondent/plaintiff. They further jointly submitted that this AO may be disposed of with a direction to the learned Judge of the lower court for expeditious hearing of the suit and during the pendency of the suit, the relief granted by this Court in CA may be continued as if there is no relief granted below application Ex.5.

3. In view of the aforesaid state of affairs and in view of the consensus arrived at by the learned advocates appearing for the parties, it is desirable and in the interest of justice of both the parties to issue necessary direction to the learned Judge of the lower court to expedite the suit and during that period there shall not be any injunction against the appellants/defendants.

4. In view of this, the learned Judge of the lower court before whom Regular Civil Suit No.1 of 1998 is pending for final disposal shall give expeditious hearing to the same and conclude the hearing including the judgment preferably on or before April 30, 2003. However, in doing so, regard shall also be had to the exigency of the pending files on his board. It is expected that both the parties shall cooperate with the learned Judge of the lower Court for the expeditious hearing and disposal of the suit and during that period there shall not be any interim injunction against the

appellants/defendants.

5. With the aforesaid observation and direction, this AO is disposed of with no order as to costs.

6. As the AO is disposed of, CA No.34 of 1999 shall also stand disposed of with no order as to costs. Interim relief granted in the CA stands vacated. Notice is discharged.

7. Direct service is permitted.

(A.M. Kapadia, J.)